THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.11265 of 2005

Dated 06-03-2006

Between:

Devalla Venkata Rao.

….Petitioner

and

The Government of A.P., rep. by its secretary,

Hyderabad, and three others.

….Respondents

THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.11265 of 2005

ORDER:

This writ petition is filed questioning the order dated 23-04-2005 passed by the second respondent-Regional Joint Commissioner of Endowments, thereby confirming the order dated 29-01-2005 passed by the third respondent-Assistant Commissioner of Endowments, whereunder the claim of the petitioner that he was a landless poor was rejected.

The petitioner was a cultivating tenant of the dry land to an extent of Ac.4.38 cents situated in Survey Nos. 45/2 and 49/1 at Gowripalli Village, Kovvur Mandal, West Godavari District, belonging to the fourth respondent-institution since 1974. While so, the third respondent issued a notice dated 08-03-2004 terminating the tenancy as contemplated under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, and the petitioner submitted an explanation stating that he is a landless poor since he does not own any land except the land leased out to him.

The third respondent-Assistant Commissioner of Endowments, having considered the claim of petitioner, by order dated 29-01-2005, held that apart from the dry land of Ac.4-38 cents belonging to the fourth respondent-institution, the petitioner is also having dry land to an extent of Ac.3-56 cents and thus, the total land works out to Ac.7-94 cents exceeding the limit of five acres specified under the explanation to Section 82 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, (hereinafter referred to as 'the Act'). Accordingly, the claim of the petitioner to declare him as the landless poor was rejected. Though the petitioner claimed that there was partition of the land owned by him i.e., the dry land to an extent of Ac.3.56 cents under an unregistered partition deed dated 03-04-1985, the third respondent did not accept the same. Aggrieved by the said order dated

29-01-2005, the petitioner preferred an appeal before the second respondent-Regional Joint Commissioner of Endowments, which was dismissed by order dated 23-04-2005. Hence, this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner vehemently contended that except the land belonging to the fourth respondent-institution i.e., to an extent of Ac.4.38 cents, the petitioner does not possess any other land and therefore, he is a landless poor within the meaning of the explanation to the proviso to sub-Section (2) of Section 82 of the Act. The learned counsel further contended that in spite of the fact that the petitioner has placed before the respondents various documents which clinchingly show that there was a partition among the family members of the petitioner in the year 1985 itself and thereafter the pattadar pass books were issued in favour of the other members of the family and the petitioner is not in possession of any other land, the respondents 2 and 3 failed to consider the same and passed the impugned orders without application of mind to the relevant factors.

The copies of the said documents which were filed before the respondents 2 and 3 in support of the claim of the petitioner have also been placed before this Court. A perusal of the said documents would show that the pattadar pass books and other documents relied on by the petitioner were all issued some time in the year 1995. Though the petitioner claimed that there was a family partition in the year 1985, admittedly it was only an unregistered document. The law is well settled that to claim the benefit under the proviso to sub-Section (2) of Section 82 of the Act, the tenant should be adjudicated as a landless poor as on the date of the commencement of the Act i.e., 21-04-1987. Since the petitioner could not place before this Court any material to show that as on 21-04-1987 there was a family partition in respect of his own land of Ac.3.56 cents, I am unable to held that the orders passed by the respondents 2 and 3 suffer from any infirmity warranting interference by this Court.

In the circumstances, the writ petition, which is devoid of any merit, is liable to be dismissed.

However, keeping in view the submission made by the learned counsel for the petitioner that there is standing crop on the land in question, liberty is granted to the petitioner to make an appropriate representation before the fourth respondent-institution seeking permission to continue in possession and to harvest the standing crop. If any such representation is made the same shall be considered and appropriate orders be passed in accordance with law.

Subject to the above observations, the writ petition is dismissed. No costs.

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(G. ROHINI, J)

Date: 06-03-2006

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